

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:07CR3152
	)	
v.	)	
	)	
JOHN F. KROTZ,	)	MEMORANDUM AND ORDER
	)	
Defendants.	)	
	)	

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Defendant Krotz has moved this court for an order suppressing any and all evidence, statements, investigations, and interrogations obtained by the government resulting from a search of the residence at 608 Dogwood, Lincoln, Nebraska and at 2001 Washington, Lincoln, Nebraska. The plaintiff claims the search warrant that ostensibly authorized the search of these residences did not permit a search of his living space and property, there was no probable cause for issuing the warrant, the warrant failed to particularize the place to be searched and or things to be seized, and the search of these residences was conducted without probable cause and exceeded the scope permitted by the search warrant.

The defendant must make threshold showing before he is entitled to a hearing on his claim that the warrant itself was defective for failing to adequately describe the property to be searched, that the warrant was issued without probable cause, or that the officers' search exceeded the scope authorized under the warrant. See Franks v. Delaware, 438 U.S. 154, 171 (1978); United States v. Frazier, 280 F.3d 835, 845 (8th Cir. 2002). The defendant has failed to make this threshold showing because the search warrant at issue is not before the court.

IT THEREFORE HEREBY IS ORDERED: On or before January 11, 2008, counsel for defendant Krotz shall file a copy of the warrant application, warrant, and warrant return at issue on defendant's motion to suppress. The documents shall be filed as restricted access documents pursuant to the E-Government Act of 2002 and will not be publically accessible absent further order of the court.

DATED this 28<sup>th</sup> day of December, 2007.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge